

§ 966.56

24 CFR Ch. IX (4-1-00 Edition)

the PHA's disposition of his grievance in any appropriate judicial proceeding.

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§ 966.56 Procedures governing the hearing.

(a) The hearing shall be held before a hearing officer or hearing panel, as appropriate.

(b) The complainant shall be afforded a fair hearing, which shall include:

(1) The opportunity to examine before the grievance hearing any PHA documents, including records and regulations, that are directly relevant to the hearing. (For a grievance hearing concerning a termination of tenancy or eviction, see also § 966.4(m).) The tenant shall be allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.

(2) The right to be represented by counsel or other person chosen as the tenant's representative, and to have such person make statements on the tenant's behalf;

(3) The right to a private hearing unless the complainant requests a public hearing;

(4) The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies; and

(5) A decision based solely and exclusively upon the facts presented at the hearing.

(c) The hearing officer or hearing panel may render a decision without proceeding with the hearing if the hearing officer or hearing panel determines that the issue has been previously decided in another proceeding.

(d) If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer or hearing panel may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his right to a hearing. Both the complain-

ant and the PHA shall be notified of the determination by the hearing officer or hearing panel: *Provided*, That a determination that the complainant has waived his right to a hearing shall not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.

(e) At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed.

(f) The hearing shall be conducted informally by the hearing officer or hearing panel and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing officer or hearing panel shall require the PHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer or hearing panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

(g) The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

(h) *Accommodation of persons with disabilities.* (1) The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

(2) If the tenant is visually impaired, any notice to the tenant which is required under this subpart must be in an accessible format.

[40 FR 33406, Aug. 7, 1975. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 56 FR 51580, Oct. 11, 1991]